

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 590 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKAR

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgement?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

ONI ISMAIL BALUWALA

Versus

GUJARAT ELECTRICITY BOARD

Appearance:

MR MUKESH R SHAH for Petitioner

MR AD OZA for Respondent No. 1

CORAM : MR.JUSTICE C.K.THAKKAR

Date of decision: 04/04/2000

ORAL JUDGEMENT

This petition is filed by the petitioner against
issuance of notice dated 13th of January, 1999, Annexure
'F' to the petition and by permanently restraining the
Gujarat Electricity Board and its Officers, servants and

nominees from taking any action pursuant to the said notice and / or disconnecting electricity supply of the petitioner at his factory.

Notice was issued by this Court on 12th of April, 1999 and, thereafter, the matter was placed for hearing from time to time. An affidavit-in-reply is also filed on behalf of respondent No.2-Deputy Engineer of the Gujarat Electricity Board.

At the hearing of the petition, a preliminary objection was raised on behalf of the respondent-Board that an alternative and equally efficacious remedy is available to the petitioner by filing an appeal before the Appellate Committee. It was submitted that the Appellate Committee is an Expert Body, having a number of Members, including a Judicial Member. It can appreciate the facts and circumstances and would come to an appropriate conclusion after considering the matter in its entirety. If the petitioner would be aggrieved even after the order passed by the Appellate Committee, he can approach this Court by invoking Article 226 / 227 of the Constitution of India, but at this stage, this court may not entertain the petition.

In the facts and circumstances of the case, in my opinion, it would not be appropriate to entertain the petition at this stage. Without observing anything on merits, therefore, the petitioner is granted liberty to approach the Appellate Committee by invoking the appellate power of the Committee. Since the petitioner has approached this Court immediately after issuance of show cause notice and demand, it is directed that if the petitioner will approach the Appellate Committee before 1st of May, 2000, the Appellate Committee will entertain the appeal without raising any objection as to limitation and will decide the same as expeditiously as possible in accordance with law. The petitioner is also granted liberty to apply for interim relief and / or re-connection on usual terms and conditions on which such order is usually passed by the Appellate Committee.

The petition is accordingly disposed of. Notice is discharged. No order as to costs.

4th April, 2000 (C.K. Thakkar, J.)

(apj)